



April 10, 2009

ENGROSSED SENATE BILL No. 448

DIGEST OF SB 448 (Updated April 9, 2009 8:58 am - DI 92)

Citations Affected: IC 4-35; IC 6-1.1; IC 6-2.5; IC 6-3.1; IC 14-8; IC 14-23; IC 36-7; noncode.

Synopsis: Reallocates a portion of the slot machine revenues distributed for thoroughbred purposes by decreasing money primarily used for purses and increasing money for the breed development fund. Provides that enterprise information technology equipment owned by an eligible business is exempt from personal property taxation for a period agreed to by a designating body (the county council or municipal fiscal body). Provides that before January 1, 2013, a designating body may adopt a resolution providing the exemption to a particular business. Requires that the designating body and the eligible business enter into an agreement concerning the property tax exemption, which must specify the duration of the property tax exemption and may specify that a transferee is entitled to the exemption on the same terms as the transferor. Specifies that the exemption continues for the period specified in the agreement,
(Continued next page)

Effective: Upon passage; January 1, 2008 (retroactive); July 1, 2008 (retroactive); January 1, 2009 (retroactive); July 1, 2009.

**Charbonneau, Hershman, Broden,
Zakas, Landske, Alting, Tallian,
Mishler, Waterman**

(HOUSE SPONSORS — AUSTIN, BORROR, SOLIDAY, NIEZGODSKI)

January 14, 2009, read first time and referred to Committee on Tax and Fiscal Policy.
February 12, 2009, amended, reported favorably — Do Pass.
February 16, 2009, read second time, ordered engrossed.
February 17, 2009, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 3, 2009, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.
April 6, 2009, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.
April 9, 2009, amended, reported — Do Pass.

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notwithstanding the January 1, 2013, deadline to adopt a resolution granting an exemption. Defines enterprise information technology equipment as: (1) hardware supporting computing, networking, or data storage function, including servers and routers; (2) networking systems having an industry designation as equipment within the "enterprise" or "data center" class of networking systems that support the computing, networking, or data storage functions; and (3) generators and other equipment used to ensure an uninterrupted power supply to such hardware and networking systems. Provides that enterprise information technology equipment does not include computer hardware designed for single user, workstation, or departmental level use. Defines an eligible business to be an entity that meets the following requirements: (1) The entity is engaged in a business that operates one or more facilities dedicated to computing, networking, or data storage activities. (2) The entity is located in a facility or data center in Indiana that contains in the aggregate at least \$10,000,000 in personal property or real property investment that is made after June 30, 2009. (3) The average employee wage of the entity is at least 125% of the county average wage for each county in which the entity conducts business operations. Exempts certain aircraft from state gross retail and use taxes. Provides that the term "alternative fuel" includes biodiesel for purposes of the Hoosier alternative fuel vehicle manufacturer tax credit. Requires the state personnel department to reclassify the job category and skill level applying to district foresters retroactive to July 1, 2008. Provides that district foresters are entitled to back pay for 2008-2009. Provides that property tax exempt properties in an economic improvement district may be subject to special assessments. Specifies that board for a district consisting of only property owner must include the property owner. Clarifies the status of assessments for purposes of the Internal Revenue Code. Authorizes bonding for an economic improvement project. Provides that taxing units expecting to receive an economic benefit from an economic improvement district project may pledge special assessments and other legally available funds for the repayment of bonds or lease rentals for certain projects. Specifies that the pledge does not create debt for the taxing unit. Establishes an interim study committee on horse racing. Repeals a 2008 noncode provision concerning district foresters.

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April 10, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 448

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-35-7-12, AS AMENDED BY P.L.146-2008,
2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2009 (RETROACTIVE)]: Sec. 12. (a) The Indiana horse
4 racing commission shall enforce the requirements of this section.
5 (b) Except as provided in subsections (j) and (k), a licensee shall
6 before the fifteenth day of each month devote to the gaming integrity
7 fund, horse racing purses, and to horsemen's associations an amount
8 equal to fifteen percent (15%) of the adjusted gross receipts of the slot
9 machine wagering from the previous month at the licensee's racetrack.
10 The Indiana horse racing commission may not use any of this money
11 for any administrative purpose or other purpose of the Indiana horse
12 racing commission, and the entire amount of the money shall be
13 distributed as provided in this section. A licensee shall pay the first two
14 hundred fifty thousand dollars (\$250,000) distributed under this section
15 in a state fiscal year to the commission for deposit in the gaming
16 integrity fund established by IC 4-35-8.7-3. After this money has been
17 distributed to the commission, a licensee shall distribute the remaining

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money devoted to horse racing purses and to horsemen's associations under this subsection as follows:

(1) Five-tenths percent (0.5%) shall be transferred to horsemen's associations for equine promotion or welfare according to the ratios specified in subsection (e).

(2) Two and five-tenths percent (2.5%) shall be transferred to horsemen's associations for backside benevolence according to the ratios specified in subsection (e).

(3) Ninety-seven percent (97%) shall be distributed to promote horses and horse racing as provided in subsection (d).

(c) A horsemen's association shall expend the amounts distributed to the horsemen's association under subsection (b)(1) through (b)(2) for a purpose promoting the equine industry or equine welfare or for a benevolent purpose that the horsemen's association determines is in the best interests of horse racing in Indiana for the breed represented by the horsemen's association. Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(d) A licensee shall distribute the amounts described in subsection (b)(3) as follows:

(1) Forty-six percent (46%) for thoroughbred purposes as follows:

(A) ~~Sixty~~ **Forty** percent ~~(60%)~~ **(40%)** for the following purposes:

(i) Ninety-seven percent (97%) for thoroughbred purses.

(ii) Two and four-tenths percent (2.4%) to the horsemen's association representing thoroughbred owners and trainers.

(iii) Six-tenths percent (0.6%) to the horsemen's association representing thoroughbred owners and breeders.

(B) ~~Forty~~ **Sixty** percent ~~(40%)~~ **(60%)** to the breed development fund established for thoroughbreds under IC 4-31-11-10.

(2) Forty-six percent (46%) for standardbred purposes as follows:

(A) Fifty percent (50%) for the following purposes:

(i) Ninety-six and five-tenths percent (96.5%) for standardbred purses.

(ii) Three and five-tenths percent (3.5%) to the horsemen's association representing standardbred owners and trainers.

(B) Fifty percent (50%) to the breed development fund established for standardbreds under IC 4-31-11-10.

(3) Eight percent (8%) for quarter horse purposes as follows:

(A) Seventy percent (70%) for the following purposes:

(i) Ninety-five percent (95%) for quarter horse purses.

(ii) Five percent (5%) to the horsemen's association

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- 1 representing quarter horse owners and trainers.
- 2 (B) Thirty percent (30%) to the breed development fund
- 3 established for quarter horses under IC 4-31-11-10.
- 4 Expenditures under this subsection are subject to the regulatory
- 5 requirements of subsection (f).
- 6 (e) Money distributed under subsection (b)(1) and (b)(2) shall be
- 7 allocated as follows:
- 8 (1) Forty-six percent (46%) to the horsemen's association
- 9 representing thoroughbred owners and trainers.
- 10 (2) Forty-six percent (46%) to the horsemen's association
- 11 representing standardbred owners and trainers.
- 12 (3) Eight percent (8%) to the horsemen's association representing
- 13 quarter horse owners and trainers.
- 14 (f) Money distributed under this section may not be expended unless
- 15 the expenditure is for a purpose authorized in this section and is either
- 16 for a purpose promoting the equine industry or equine welfare or is for
- 17 a benevolent purpose that is in the best interests of horse racing in
- 18 Indiana or the necessary expenditures for the operations of the
- 19 horsemen's association required to implement and fulfill the purposes
- 20 of this section. The Indiana horse racing commission may review any
- 21 expenditure of money distributed under this section to ensure that the
- 22 requirements of this section are satisfied. The Indiana horse racing
- 23 commission shall adopt rules concerning the review and oversight of
- 24 money distributed under this section and shall adopt rules concerning
- 25 the enforcement of this section. The following apply to a horsemen's
- 26 association receiving a distribution of money under this section:
- 27 (1) The horsemen's association must annually file a report with
- 28 the Indiana horse racing commission concerning the use of the
- 29 money by the horsemen's association. The report must include
- 30 information as required by the commission.
- 31 (2) The horsemen's association must register with the Indiana
- 32 horse racing commission.
- 33 (g) The commission shall provide the Indiana horse racing
- 34 commission with the information necessary to enforce this section.
- 35 (h) The Indiana horse racing commission shall investigate any
- 36 complaint that a licensee has failed to comply with the horse racing
- 37 purse requirements set forth in this section. If, after notice and a
- 38 hearing, the Indiana horse racing commission finds that a licensee has
- 39 failed to comply with the purse requirements set forth in this section,
- 40 the Indiana horse racing commission may:
- 41 (1) issue a warning to the licensee;
- 42 (2) impose a civil penalty that may not exceed one million dollars

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1 (\$1,000,000); or

2 (3) suspend a meeting permit issued under IC 4-31-5 to conduct
3 a pari-mutuel wagering horse racing meeting in Indiana.

4 (i) A civil penalty collected under this section must be deposited in
5 the state general fund.

6 (j) For a state fiscal year beginning after June 30, 2008, and ending
7 before July 1, 2009, the amount of money dedicated to the purposes
8 described in subsection (b) for a particular state fiscal year is equal to
9 the lesser of:

10 (1) fifteen percent (15%) of the licensee's adjusted gross receipts
11 for the state fiscal year; or

12 (2) eighty-five million dollars (\$85,000,000).

13 If fifteen percent (15%) of a licensee's adjusted gross receipts for the
14 state fiscal year exceeds the amount specified in subdivision (2), the
15 licensee shall transfer the amount of the excess to the commission for
16 deposit in the state general fund. The licensee shall adjust the transfers
17 required under this section in the final month of the state fiscal year to
18 comply with the requirements of this subsection.

19 (k) For a state fiscal year beginning after June 30, 2009, the amount
20 of money dedicated to the purposes described in subsection (b) for a
21 particular state fiscal year is equal to the lesser of:

22 (1) fifteen percent (15%) of the licensee's adjusted gross receipts
23 for the state fiscal year; or

24 (2) the amount dedicated to the purposes described in subsection
25 (b) in the previous state fiscal year increased by a percentage that
26 does not exceed the percent of increase in the United States
27 Department of Labor Consumer Price Index during the year
28 preceding the year in which an increase is established.

29 If fifteen percent (15%) of a licensee's adjusted gross receipts for the
30 state fiscal year exceeds the amount specified in subdivision (2), the
31 licensee shall transfer the amount of the excess to the commission for
32 deposit in the state general fund. The licensee shall adjust the transfers
33 required under this section in the final month of the state fiscal year to
34 comply with the requirements of this subsection.

35 SECTION 2. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE
36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
37 1, 2009]: **Sec. 44. (a) As used in this section, "designating body"**
38 **means:**

39 **(1) in the case of a county, the fiscal body of the county; or**

40 **(2) in the case of a municipality located in a county that does**
41 **not contain a consolidated city, the fiscal body of the**
42 **municipality.**

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(b) As used in this section, "eligible business" means an entity that meets the following requirements:

(1) The entity is engaged in a business that operates one (1) or more facilities dedicated to computing, networking, or data storage activities.

(2) The entity is located in a facility or data center in Indiana that contains in the aggregate at least ten million dollars (\$10,000,000) in:

(A) personal property investment; and

(B) real property investment;
that is made after June 30, 2009.

(3) The average employee wage of the entity is at least one hundred twenty-five percent (125%) of the county average wage for each county in which the entity conducts business operations.

(c) As used in this section, "enterprise information technology equipment" means the following:

(1) Hardware supporting computing, networking, or data storage function, including servers and routers.

(2) Networking systems having an industry designation as equipment within the "enterprise" or "data center" class of networking systems that support the computing, networking, or data storage functions.

(3) Generators and other equipment used to ensure an uninterrupted power supply to equipment described in subdivision (1) or (2).

The term does not include computer hardware designed for single user, workstation, or departmental level use.

(d) As used in this section, "fiscal body" has the meaning set forth in IC 36-1-2-6.

(e) As used in this section, "municipality" has the meaning set forth in IC 36-1-2-11.

(f) Before adopting a final resolution under subsection (g) to provide a property tax exemption, a designating body must first adopt a declaratory resolution provisionally specifying that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation. The designating body shall file a declaratory resolution adopted under this subsection with the county assessor. After a designating body adopts a declaratory resolution specifying that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation, the designating body

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1 shall publish notice of the adoption and the substance of the
 2 declaratory resolution in accordance with IC 5-3-1 and file a copy
 3 of the notice and the declaratory resolution with each taxing unit
 4 in the county. The notice must specify a date when the designating
 5 body will receive and hear all remonstrances and objections from
 6 interested persons. The designating body shall file the notice and
 7 the declaratory resolution with the officers of the taxing units who
 8 are authorized to fix budgets, tax rates, and tax levies under
 9 IC 6-1.1-17-5 at least ten (10) days before the date for the public
 10 hearing. After the designating body considers the testimony
 11 presented at the public hearing, the designating body may adopt a
 12 second and final resolution under subsection (g). The second and
 13 final resolution under subsection (g) may modify, confirm, or
 14 rescind the declaratory resolution.

15 (g) Before January 1, 2013, a designating body may after
 16 following the procedures of subsection (f) adopt a final resolution
 17 providing that enterprise information technology equipment
 18 owned by a particular eligible business is exempt from property
 19 taxation. In the case of a designating body that is a county fiscal
 20 body, the exemption applies only to enterprise information
 21 technology equipment that is located in unincorporated territory
 22 of the county. In the case of a designating body that is a municipal
 23 fiscal body, the exemption applies only to enterprise information
 24 technology equipment that is located in the municipality. The
 25 property tax exemption applies to the enterprise information
 26 technology equipment only if the designating body and the eligible
 27 business enter into an agreement concerning the property tax
 28 exemption. The agreement must specify the duration of the
 29 property tax exemption. The agreement may specify that if the
 30 ownership of enterprise information technology equipment is
 31 transferred by an eligible business, the transferee is entitled to the
 32 property tax exemption on the same terms as the transferor. If a
 33 designating body adopts a final resolution under this subsection
 34 and enters into an agreement with an eligible business, the
 35 enterprise information technology equipment owned by the eligible
 36 business is exempt from property taxation as provided in the
 37 resolution and the agreement.

38 (h) If a designating body adopts a final resolution and enters
 39 into an agreement under subsection (g) to provide a property tax
 40 exemption, the property tax exemption continues for the period
 41 specified in the agreement, notwithstanding the January 1, 2013,
 42 deadline to adopt a final resolution under subsection (g).

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SECTION 3. IC 6-2.5-5-8, AS AMENDED BY P.L.224-2007, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 8. (a) As used in this section, "new motor vehicle" has the meaning set forth in IC 9-13-2-111.

(b) Transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of the person's business without changing the form of the property.

(c) The following transactions involving a new motor vehicle are exempt from the state gross retail tax:

(1) A transaction in which a person that has a franchise in effect at the time of the transaction for the vehicle trade name, trade or service mark, or related characteristics acquires a new motor vehicle for resale, rental, or leasing in the ordinary course of the person's business.

(2) A transaction in which a person that is a franchisee appointed by a manufacturer or converter manufacturer licensed under IC 9-23 acquires a new motor vehicle that has at least one (1) trade name, service mark, or related characteristic as a result of modification or further manufacture by the manufacturer or converter manufacturer for resale, rental, or leasing in the ordinary course of the person's business.

(3) A transaction in which a person acquires a new motor vehicle for rental or leasing in the ordinary course of the person's business.

(d) The rental or leasing of accommodations to a promoter by a political subdivision (including a capital improvement board) or the state fair commission is not exempt from the state gross retail tax, if the rental or leasing of the property by the promoter is exempt under IC 6-2.5-4-4.

(e) This subsection applies only **to aircraft acquired** after June 30, 2008. **Except as provided in subsection (f)**, a transaction in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business is not exempt from the state gross retail tax unless the person establishes, under guidelines adopted by the department in the manner provided in IC 4-22-2-37.1 for the adoption of emergency rules, that the annual amount of the **gross** lease revenue derived from leasing **or rental of** the aircraft is equal to or greater than

~~(+) ten percent (10%) of the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was~~

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less than one million dollars (\$1,000,000); or

(2) seven and five-tenths percent (7.5%) of:

(1) the greater of the ~~original cost or the~~ book value of the aircraft, if the original cost of the aircraft was at least one million dollars (\$1,000,000); as published in the Vref Aircraft Value Reference guide for the aircraft; or

(2) the net acquisition price for the aircraft.

However, if a person acquires an aircraft for less than the Vref Aircraft Value reference guide book value, the person may appeal to the department for a lower lease or rental threshold equal to the actual acquisition price paid if the person demonstrates that the transaction was completed in a commercially reasonable manner based on the aircraft's age, condition, and equipment. The department may request that the person submit to the department supporting documents showing that the aircraft is available for general public lease or rental, copies of business and aircraft insurance policies, and any other documents that will assist the department in determining whether an aircraft is exempt from state gross retail tax under this subsection.

(f) The department shall not assess state gross retail or use taxes on an acquisition under subsection (e) if the person does not meet the minimum lease or rental requirements of subsection (e) in a tax year if the person is unable to meet the lease or rental requirements because of:

(1) economic conditions;

(2) shortage of key personnel;

(3) weather;

(4) the aircraft being out of service for extended maintenance;

(5) regulatory requirements of the Federal Aviation Administration; or

(6) other conditions acceptable to the department.

(g) A person is required to meet the requirements of subsection (e) until the aircraft has generated sales tax on rental or lease income:

(1) in an amount equal to the amount of the original sales tax exemption; or

(2) for a period of not more than thirteen (13) years.

If the aircraft is sold by the person before meeting the requirements of this section and before the sale the aircraft was exempt from gross retail tax under subsection (e), the sale of the aircraft must not result in the assessment or collection of gross retail tax for the period from the date of acquisition of the aircraft

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by the person to the date of the sale of the aircraft by the person.

(h) A person shall remit gross retail tax on taxable lease and rental transactions under subsection (e) regardless of how long the aircraft is leased or rented.

(i) This subsection applies only to an aircraft acquired after December 31, 2007. A transaction in which a person acquires an aircraft to rent or lease to another person predominantly for use in public transportation under Federal Aviation Regulation Part 135 (14 CFR 135.1 et seq.) by the other person or an affiliate of the other person is exempt from the state gross retail tax. The department may not require a person to meet the revenue thresholds applicable to an exemption under subsection (e) with respect to the person's leasing or rental of the aircraft in order to receive or maintain an exemption under this subsection. In order to maintain an exemption under this subsection, the department may require only that the person submit annual reports showing that the aircraft is predominantly used to provide public transportation under Federal Aviation Regulation Part 135 (14 CFR 135.1 et seq.).

(j) The exemptions allowed under subsections (e) and (i) apply regardless of the relationship, if any, between the person or lessor and the lessee or renter of the aircraft.

SECTION 4. IC 6-3.1-31.9-1, AS ADDED BY P.L.223-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "alternative fuel" means:

- (1) methanol, denatured ethanol, and other alcohols;
- (2) mixtures containing eighty-five percent (85%) or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuel;
- (3) natural gas;
- (4) liquefied petroleum gas;
- (5) hydrogen;
- (6) coal-derived liquid fuels;
- (7) non-alcohol fuels derived from biological material;
- (8) P-Series fuels; or
- (9) electricity; or

(10) biodiesel (as defined in IC 6-3.1-27-1).

SECTION 5. IC 14-8-2-72.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: Sec. 72.5. "District forester", for purposes of IC 14-23-10, means an employee of the department

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1 who:

2 (1) holds a bachelor of science degree in forest management
3 or a closely related forestry curriculum from a college or
4 university accredited by the Society of American Foresters;
5 and

6 (2) is responsible for the administration of IC 6-1.1-6 within
7 designated counties.

8 SECTION 6. IC 14-8-2-266.9 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: **Sec. 266.9. "State**
11 **staffing table"**, for purposes of IC 14-23-10, means a position
12 **classification plan and salary and wage schedule adopted by the**
13 **state personnel department under IC 4-15-1.8-7.**

14 SECTION 7. IC 14-23-10 IS ADDED TO THE INDIANA CODE
15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2008 (RETROACTIVE)]:

17 **Chapter 10. Compensation of District Foresters**

18 **Sec. 1. This chapter applies only to salaries paid for pay periods**
19 **beginning after June 30, 2008.**

20 **Sec. 2. For pay periods beginning after June 30, 2008, the state**
21 **personnel department shall reclassify the job category and skill**
22 **level of the position of district forester as follows:**

23 **Job Category Executive, Scientific, and Medical (ESM)**
24 **Skill Level 7.**

25 **Sec. 3. The state personnel department shall apply the years of**
26 **experience accrued by a district forester under the job category**
27 **and skill level that applied to the district forester before the**
28 **effective date of the reclassification required by this chapter to the**
29 **district forester's new classification when computing the salary due**
30 **to the district forester under the new classification.**

31 **Sec. 4. Notwithstanding the salary and wage schedule applying**
32 **to a district forester on July 1, 2008, under the state staffing table,**
33 **a district forester is entitled to back pay in an amount equal to the**
34 **difference between:**

35 (1) the amount of salary that would have been paid to the
36 district forester for the period beginning July 1, 2008, and
37 ending June 30, 2009, if the district forester's salary had been
38 computed in accordance with the reclassification of the
39 district forester's job category and skill level required by
40 section 2 of this chapter; minus

41 (2) the salary actually paid to the district forester for the
42 period beginning July 1, 2008, and ending June 30, 2009.

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SECTION 8. IC 36-7-22-3, AS AMENDED BY P.L.131-2008, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "economic improvement project" means the following:

- (1) Planning or managing development or improvement activities.
- (2) Designing, landscaping, beautifying, constructing, or maintaining public areas, public improvements, or public ways (including designing, constructing, or maintaining lighting, infrastructure, utility facilities, improvements, and equipment, water facilities, improvements, and equipment, sewage facilities, improvements, and equipment, streets, or sidewalks for a public area or public way).
- (3) Promoting commercial activity or public events.
- (4) Supporting business recruitment and development.
- (5) Providing security for public areas.
- (6) Acquiring, constructing, or maintaining parking facilities.
- (7) **Developing**, constructing, rehabilitating, or repairing residential property, including improvements related to the **structure and** habitability of the **public and private** residential property.
- (8) **An economic development facility or redevelopment project established under IC 36-7-12, IC 36-7-14, or IC 36-7-15.1.**

SECTION 9. IC 36-7-22-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) An ordinance adopted under section 7 of this chapter may provide that businesses established within the district after the creation of the district are exempt from special assessments for a period not to exceed one (1) year.

(b) Property that is:

- (1) located within the district; and**
 - (2) otherwise exempt from property taxation;**
- is not exempt from special assessments unless the property is specifically exempted from special assessments in the manner provided by this chapter.**

SECTION 10. IC 36-7-22-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) An ordinance adopted under section 7 of this chapter must establish an economic improvement board to be appointed by the legislative body. The board must have at least three (3) members, and a majority of the board members must own real property within the district.

(b) The economic improvement board of a district consisting of

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1 **property belonging to only one (1) property owner must include**
 2 **the property owner and at least one (1) other member who is**
 3 **selected by the property owner.**

4 SECTION 11. IC 36-7-22-12, AS AMENDED BY P.L.131-2008,
 5 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2009]: Sec. 12. (a) The board shall use the formula approved
 7 by the legislative body under section 7(a)(4) of this chapter to
 8 determine the percentage of benefit to be received by each parcel of
 9 real property within the economic improvement district. The board
 10 shall apply the percentage determined for each parcel to the total
 11 amount that is to be defrayed by special assessment and determine the
 12 assessment for each parcel.

13 (b) Promptly after determining the proposed assessment for each
 14 parcel, the board shall mail notice to each owner of property to be
 15 assessed. This notice must:

- 16 (1) set forth the amount of the proposed assessment;
- 17 (2) state that the proposed assessment on each parcel of real
- 18 property in the economic improvement district is on file and can
- 19 be seen in the board's office;
- 20 (3) state the time and place where written remonstrances against
- 21 the assessment may be filed;
- 22 (4) set forth the time and place where the board will hear any
- 23 owner of assessed real property who has filed a remonstrance
- 24 before the hearing date; and
- 25 (5) state that the board, after hearing evidence, may increase or
- 26 decrease, or leave unchanged, the assessment on any parcel.

27 (c) The notices must be deposited in the mail twenty (20) days
 28 before the hearing date. The notices to the owners must be addressed
 29 as the names and addresses appear on the tax duplicates and the
 30 records of the county auditor.

31 (d) At the time fixed in the notice, the board shall hear any owner
 32 of assessed real property who has filed a written remonstrance before
 33 the date of the hearing. The hearing may be continued from time to
 34 time as long as is necessary to hear the owners.

35 (e) The board shall render its decision by increasing, decreasing, or
 36 confirming each assessment by setting opposite each name, parcel, and
 37 proposed assessment, the amount of the assessment as determined by
 38 the board. However, if the total of the assessments exceeds the amount
 39 needed, the board shall make a prorated reduction in each assessment.

40 (f) Except as provided in section 13 of this chapter, the signing of
 41 the assessment schedule by a majority of the members of the board and
 42 the delivery of the schedule to the county auditor ~~constitutes~~ **constitute**

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a final and conclusive determination of the benefits that are assessed.

(g) Each economic improvement district assessment is:

(1) included within the definition of property taxation under IC 6-1.1-1-14 **for purposes of applying Section 164 of the Internal Revenue Code to the determination of taxable income;**

(2) collected for the general public welfare; and

~~(2)~~ **(3) a lien on the real property that is assessed in the economic improvement district.**

The general assembly finds that an economic improvement district assessment is a property tax levied for the general public welfare.

(h) An economic improvement district assessment paid by a property owner is a property tax for the purposes of applying Section ~~164~~ of the Internal Revenue Code to the determination of adjusted gross income. However, an economic improvement district assessment paid by a property tax owner is not eligible for a credit under IC 6-1.1, IC 6-3.5, or any other law.

(i) The board shall certify to the county auditor the schedule of assessments of benefits.

SECTION 12. IC 36-7-22-22, AS ADDED BY P.L.131-2008, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. **(a)** The board may:

(1) exercise of any of the powers of a unit under IC 36-7-12-18 or IC 36-7-12-18.5; or

(2) issue revenue bonds;

to finance an economic improvement project.

(b) Bonds may be issued for an economic improvement project by a commission established under IC 36-7-12, IC 36-7-14, or IC 36-7-15.1.

(c) Notwithstanding any other law, a taxing unit that expects to receive an economic benefit from an economic improvement district project under this chapter may pledge special assessments and any legally available funds for the payment of bonds or lease rentals to finance an economic improvement project, an economic development facility, or a redevelopment project established under IC 36-7-12, IC 36-7-14, or IC 36-7-15.1. The pledge does not create a debt of the pledging taxing unit under the Constitution of the State of Indiana.

SECTION 13. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the interim study committee on horse racing established by this SECTION.**

(b) There is established the interim study committee on horse

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1 racing. The committee shall study issues concerning live
2 pari-mutuel horse racing, including the following:

- 3 (1) The allocation of stalls at racetracks.
- 4 (2) The distribution of money received by the Indiana horse
5 racing commission.
- 6 (3) Racing opportunities for Indiana bred horses.
- 7 (4) Injuries and equine mortality.
- 8 (5) Drug testing.
- 9 (6) Breed development.
- 10 (7) Whether the Indiana horse racing commission should
11 remain an independent agency or be placed within the
12 Indiana state department of agriculture.
- 13 (8) The allocation of money for purses.

14 (c) The committee shall operate under the policies governing
15 study committees adopted by the legislative council.

16 (d) The affirmative votes of a majority of the voting members
17 appointed to the committee are required for the committee to take
18 action on any measure, including a final report.

19 (e) The committee shall submit a final report of the committee's
20 findings and recommendations to the legislative council in an
21 electronic format under IC 5-14-6 before November 1, 2009.

22 (f) This SECTION expires December 1, 2009.

23 SECTION 14. [EFFECTIVE JANUARY 1, 2009
24 (RETROACTIVE)] (a) IC 4-35-7-12, as amended by this act, applies
25 to:

- 26 (1) adjusted gross receipts (as defined in IC 4-35-2-2) received
27 by a licensee after December 31, 2008;
- 28 (2) amounts that are distributed to promote horses and horse
29 racing under IC 4-35-7-12(b)(3) after January 31, 2009; and
- 30 (3) racing meetings that begin after December 31, 2008.

31 (b) As used in this SECTION, "fund" refers to the breed
32 development fund established for thoroughbreds under
33 IC 4-31-11-10.

34 (c) As used in this SECTION, "licensee" has the meaning set
35 forth in IC 4-35-2-7.

36 (d) Distributions made before May 1, 2009, must be reconciled
37 with the distribution amounts required under IC 4-35-7-12, as
38 amended by this act. A licensee shall supplement each distribution
39 to the fund under IC 4-35-7-12(d)(1)(B), as amended by this act,
40 that is made after April 30, 2009, and before November 1, 2010,
41 with an additional amount that is equal to one-sixth (1/6) of the
42 difference between:

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1 (1) the total amount of distributions to the fund for February,
 2 March, and April 2009 that are required by
 3 IC 4-35-7-12(d)(1)(B), as amended by this act; minus
 4 (2) the total amount of distributions that were actually made
 5 to the fund in February, March, and April 2009.
 6 (e) This SECTION expires May 1, 2010.
 7 SECTION 15. P.L.131-2008, SECTION 70, IS REPEALED
 8 [EFFECTIVE JULY 1, 2009].
 9 SECTION 16. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 448, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 44. (a) As used in this section, "designating body" means:

- (1) in the case of a county, the fiscal body of the county; or
- (2) in the case of a municipality located in a county that does not contain a consolidated city, the fiscal body of the municipality.

(b) As used in this section, "eligible business" means an entity that meets the following requirements:

- (1) The entity is engaged in a business that operates one (1) or more facilities dedicated to computing, networking, or data storage activities.
- (2) The entity is located in a facility or data center in Indiana that contains in the aggregate at least ten million dollars (\$10,000,000) in:
 - (A) personal property investment; and
 - (B) real property investment;
 that is made after June 30, 2009.
- (3) The average employee wage of the entity is at least one hundred twenty-five percent (125%) of the county average wage for each county in which the entity conducts business operations.

(c) As used in this section, "enterprise information technology equipment" means the following:

- (1) Hardware supporting computing, networking, or data storage function, including servers and routers.
- (2) Networking systems having an industry designation as equipment within the "enterprise" or "data center" class of networking systems that support the computing, networking, or data storage functions.
- (3) Generators and other equipment used to ensure an uninterrupted power supply to equipment described in subdivision (1) or (2).

The term does not include computer hardware designed for single user, workstation, or departmental level use.

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(d) As used in this section, "fiscal body" has the meaning set forth in IC 36-1-2-6.

(e) As used in this section, "municipality" has the meaning set forth in IC 36-1-2-11.

(f) Before adopting a final resolution under subsection (g) to provide a property tax exemption, a designating body must first adopt a declaratory resolution provisionally specifying that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation. The designating body shall file a declaratory resolution adopted under this subsection with the county assessor. After a designating body adopts a declaratory resolution specifying that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation, the designating body shall publish notice of the adoption and the substance of the declaratory resolution in accordance with IC 5-3-1 and file a copy of the notice and the declaratory resolution with each taxing unit in the county. The notice must specify a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the notice and the declaratory resolution with the officers of the taxing units who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date for the public hearing. After the designating body considers the testimony presented at the public hearing, the designating body may adopt a second and final resolution under subsection (g). The second and final resolution under subsection (g) may modify, confirm, or rescind the declaratory resolution.

(g) Before January 1, 2013, a designating body may after following the procedures of subsection (f) adopt a final resolution providing that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation. In the case of a designating body that is a county fiscal body, the exemption applies only to enterprise information technology equipment that is located in unincorporated territory of the county. In the case of a designating body that is a municipal fiscal body, the exemption applies only to enterprise information technology equipment that is located in the municipality. The property tax exemption applies to the enterprise information technology equipment only if the designating body and the eligible business enter into an agreement concerning the property tax exemption. The agreement must specify the duration of the

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property tax exemption. The agreement may specify that if the ownership of enterprise information technology equipment is transferred by an eligible business, the transferee is entitled to the property tax exemption on the same terms as the transferor. If a designating body adopts a final resolution under this subsection and enters into an agreement with an eligible business, the enterprise information technology equipment owned by the eligible business is exempt from property taxation as provided in the resolution and the agreement.

(h) If a designating body adopts a final resolution and enters into an agreement under subsection (g) to provide a property tax exemption, the property tax exemption continues for the period specified in the agreement, notwithstanding the January 1, 2013, deadline to adopt a final resolution under subsection (g)."

Delete page 2.

and when so amended that said bill do pass.

(Reference is to SB 448 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology and Utilities, to which was referred Senate Bill 448, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

MOSES, Chair

Committee Vote: yeas 11, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 448, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-35-7-12, AS AMENDED BY P.L.146-2008, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 12. (a) The Indiana horse racing commission shall enforce the requirements of this section.

(b) Except as provided in subsections (j) and (k), a licensee shall before the fifteenth day of each month devote to the gaming integrity fund, horse racing purses, and to horsemen's associations an amount equal to fifteen percent (15%) of the adjusted gross receipts of the slot machine wagering from the previous month at the licensee's racetrack. The Indiana horse racing commission may not use any of this money for any administrative purpose or other purpose of the Indiana horse racing commission, and the entire amount of the money shall be distributed as provided in this section. A licensee shall pay the first two hundred fifty thousand dollars (\$250,000) distributed under this section in a state fiscal year to the commission for deposit in the gaming integrity fund established by IC 4-35-8.7-3. After this money has been distributed to the commission, a licensee shall distribute the remaining money devoted to horse racing purses and to horsemen's associations under this subsection as follows:

- (1) Five-tenths percent (0.5%) shall be transferred to horsemen's associations for equine promotion or welfare according to the ratios specified in subsection (e).
- (2) Two and five-tenths percent (2.5%) shall be transferred to horsemen's associations for backside benevolence according to the ratios specified in subsection (e).
- (3) Ninety-seven percent (97%) shall be distributed to promote horses and horse racing as provided in subsection (d).

(c) A horsemen's association shall expend the amounts distributed to the horsemen's association under subsection (b)(1) through (b)(2) for a purpose promoting the equine industry or equine welfare or for a benevolent purpose that the horsemen's association determines is in the best interests of horse racing in Indiana for the breed represented by the

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horsemen's association. Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(d) A licensee shall distribute the amounts described in subsection (b)(3) as follows:

(1) Forty-six percent (46%) for thoroughbred purposes as follows:

(A) ~~Sixty~~ **Forty** percent (~~60%~~) (**40%**) for the following purposes:

(i) Ninety-seven percent (97%) for thoroughbred purses.

(ii) Two and four-tenths percent (2.4%) to the horsemen's association representing thoroughbred owners and trainers.

(iii) Six-tenths percent (0.6%) to the horsemen's association representing thoroughbred owners and breeders.

(B) ~~Forty~~ **Sixty** percent (~~40%~~) (**60%**) to the breed development fund established for thoroughbreds under IC 4-31-11-10.

(2) Forty-six percent (46%) for standardbred purposes as follows:

(A) Fifty percent (50%) for the following purposes:

(i) Ninety-six and five-tenths percent (96.5%) for standardbred purses.

(ii) Three and five-tenths percent (3.5%) to the horsemen's association representing standardbred owners and trainers.

(B) Fifty percent (50%) to the breed development fund established for standardbreds under IC 4-31-11-10.

(3) Eight percent (8%) for quarter horse purposes as follows:

(A) Seventy percent (70%) for the following purposes:

(i) Ninety-five percent (95%) for quarter horse purses.

(ii) Five percent (5%) to the horsemen's association representing quarter horse owners and trainers.

(B) Thirty percent (30%) to the breed development fund established for quarter horses under IC 4-31-11-10.

Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(e) Money distributed under subsection (b)(1) and (b)(2) shall be allocated as follows:

(1) Forty-six percent (46%) to the horsemen's association representing thoroughbred owners and trainers.

(2) Forty-six percent (46%) to the horsemen's association representing standardbred owners and trainers.

(3) Eight percent (8%) to the horsemen's association representing quarter horse owners and trainers.

(f) Money distributed under this section may not be expended unless the expenditure is for a purpose authorized in this section and is either

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for a purpose promoting the equine industry or equine welfare or is for a benevolent purpose that is in the best interests of horse racing in Indiana or the necessary expenditures for the operations of the horsemen's association required to implement and fulfill the purposes of this section. The Indiana horse racing commission may review any expenditure of money distributed under this section to ensure that the requirements of this section are satisfied. The Indiana horse racing commission shall adopt rules concerning the review and oversight of money distributed under this section and shall adopt rules concerning the enforcement of this section. The following apply to a horsemen's association receiving a distribution of money under this section:

- (1) The horsemen's association must annually file a report with the Indiana horse racing commission concerning the use of the money by the horsemen's association. The report must include information as required by the commission.
 - (2) The horsemen's association must register with the Indiana horse racing commission.
 - (g) The commission shall provide the Indiana horse racing commission with the information necessary to enforce this section.
 - (h) The Indiana horse racing commission shall investigate any complaint that a licensee has failed to comply with the horse racing purse requirements set forth in this section. If, after notice and a hearing, the Indiana horse racing commission finds that a licensee has failed to comply with the purse requirements set forth in this section, the Indiana horse racing commission may:
 - (1) issue a warning to the licensee;
 - (2) impose a civil penalty that may not exceed one million dollars (\$1,000,000); or
 - (3) suspend a meeting permit issued under IC 4-31-5 to conduct a pari-mutuel wagering horse racing meeting in Indiana.
 - (i) A civil penalty collected under this section must be deposited in the state general fund.
 - (j) For a state fiscal year beginning after June 30, 2008, and ending before July 1, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:
 - (1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or
 - (2) eighty-five million dollars (\$85,000,000).
- If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for

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deposit in the state general fund. The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection.

(k) For a state fiscal year beginning after June 30, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:

- (1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or
- (2) the amount dedicated to the purposes described in subsection (b) in the previous state fiscal year increased by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.

If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for deposit in the state general fund. The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection."

Page 3, after line 33, begin a new paragraph and insert:

"SECTION 3. IC 6-2.5-5-8, AS AMENDED BY P.L.224-2007, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 8. (a) As used in this section, "new motor vehicle" has the meaning set forth in IC 9-13-2-111.

(b) Transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of the person's business without changing the form of the property.

(c) The following transactions involving a new motor vehicle are exempt from the state gross retail tax:

- (1) A transaction in which a person that has a franchise in effect at the time of the transaction for the vehicle trade name, trade or service mark, or related characteristics acquires a new motor vehicle for resale, rental, or leasing in the ordinary course of the person's business.
- (2) A transaction in which a person that is a franchisee appointed by a manufacturer or converter manufacturer licensed under IC 9-23 acquires a new motor vehicle that has at least one (1) trade name, service mark, or related characteristic as a result of modification or further manufacture by the manufacturer or

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converter manufacturer for resale, rental, or leasing in the ordinary course of the person's business.

(3) A transaction in which a person acquires a new motor vehicle for rental or leasing in the ordinary course of the person's business.

(d) The rental or leasing of accommodations to a promoter by a political subdivision (including a capital improvement board) or the state fair commission is not exempt from the state gross retail tax, if the rental or leasing of the property by the promoter is exempt under IC 6-2.5-4-4.

(e) This subsection applies only **to aircraft acquired** after June 30, 2008. **Except as provided in subsection (f)**, a transaction in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business is not exempt from the state gross retail tax unless the person establishes, under guidelines adopted by the department in the manner provided in IC 4-22-2-37.1 for the adoption of emergency rules, that the annual amount of the **gross** lease revenue derived from leasing **or rental of** the aircraft is equal to or greater than

~~(1) ten percent (10%) of the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was less than one million dollars (\$1,000,000); or~~

~~(2) seven and five-tenths percent (7.5%) of:~~

~~(1) the greater of the original cost or the book value of the aircraft, if the original cost of the aircraft was at least one million dollars (\$1,000,000); as published in the Vref Aircraft Value Reference guide for the aircraft; or~~

~~(2) the net acquisition price for the aircraft.~~

However, if a person acquires an aircraft for less than the Vref Aircraft Value reference guide book value, the person may appeal to the department for a lower lease or rental threshold equal to the actual acquisition price paid if the person demonstrates that the transaction was completed in a commercially reasonable manner based on the aircraft's age, condition, and equipment. The department may request that the person submit to the department supporting documents showing that the aircraft is available for general public lease or rental, copies of business and aircraft insurance policies, and any other documents that will assist the department in determining whether an aircraft is exempt from state gross retail tax under this subsection.

(f) The department shall not assess state gross retail or use taxes on an acquisition under subsection (e) if the person does not meet the minimum lease or rental requirements of subsection (e) in a tax

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year if the person is unable to meet the lease or rental requirements because of:

- (1) economic conditions;
- (2) shortage of key personnel;
- (3) weather;
- (4) the aircraft being out of service for extended maintenance;
- (5) regulatory requirements of the Federal Aviation Administration; or
- (6) other conditions acceptable to the department.

(g) A person is required to meet the requirements of subsection (e) until the aircraft has generated sales tax on rental or lease income:

- (1) in an amount equal to the amount of the original sales tax exemption; or
- (2) for a period of not more than thirteen (13) years.

If the aircraft is sold by the person before meeting the requirements of this section and before the sale the aircraft was exempt from gross retail tax under subsection (e), the sale of the aircraft must not result in the assessment or collection of gross retail tax for the period from the date of acquisition of the aircraft by the person to the date of the sale of the aircraft by the person.

(h) A person shall remit gross retail tax on taxable lease and rental transactions under subsection (e) regardless of how long the aircraft is leased or rented.

(i) This subsection applies only to an aircraft acquired after December 31, 2007. A transaction in which a person acquires an aircraft to rent or lease to another person predominantly for use in public transportation under Federal Aviation Regulation Part 135 (14 CFR 135.1 et seq.) by the other person or an affiliate of the other person is exempt from the state gross retail tax. The department may not require a person to meet the revenue thresholds applicable to an exemption under subsection (e) with respect to the person's leasing or rental of the aircraft in order to receive or maintain an exemption under this subsection. In order to maintain an exemption under this subsection, the department may require only that the person submit annual reports showing that the aircraft is predominantly used to provide public transportation under Federal Aviation Regulation Part 135 (14 CFR 135.1 et seq.).

(j) The exemptions allowed under subsections (e) and (i) apply regardless of the relationship, if any, between the person or lessor and the lessee or renter of the aircraft.

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SECTION 4. IC 6-3.1-31.9-1, AS ADDED BY P.L.223-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "alternative fuel" means:

- (1) methanol, denatured ethanol, and other alcohols;
- (2) mixtures containing eighty-five percent (85%) or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuel;
- (3) natural gas;
- (4) liquefied petroleum gas;
- (5) hydrogen;
- (6) coal-derived liquid fuels;
- (7) non-alcohol fuels derived from biological material;
- (8) P-Series fuels; or
- (9) electricity; or
- (10) biodiesel (as defined in IC 6-3.1-27-1).**

SECTION 5. IC 14-8-2-72.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: **Sec. 72.5. "District forester", for purposes of IC 14-23-10, means an employee of the department who:**

- (1) holds a bachelor of science degree in forest management or a closely related forestry curriculum from a college or university accredited by the Society of American Foresters; and**
- (2) is responsible for the administration of IC 6-1.1-6 within designated counties.**

SECTION 6. IC 14-8-2-266.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: **Sec. 266.9. "State staffing table", for purposes of IC 14-23-10, means a position classification plan and salary and wage schedule adopted by the state personnel department under IC 4-15-1.8-7.**

SECTION 7. IC 14-23-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]:

Chapter 10. Compensation of District Foresters

Sec. 1. This chapter applies only to salaries paid for pay periods beginning after June 30, 2008.

Sec. 2. For pay periods beginning after June 30, 2008, the state personnel department shall reclassify the job category and skill level of the position of district forester as follows:

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**Job Category Executive, Scientific, and Medical (ESM)
Skill Level 7.**

Sec. 3. The state personnel department shall apply the years of experience accrued by a district forester under the job category and skill level that applied to the district forester before the effective date of the reclassification required by this chapter to the district forester's new classification when computing the salary due to the district forester under the new classification.

Sec. 4. Notwithstanding the salary and wage schedule applying to a district forester on July 1, 2008, under the state staffing table, a district forester is entitled to back pay in an amount equal to the difference between:

- (1) the amount of salary that would have been paid to the district forester for the period beginning July 1, 2008, and ending June 30, 2009, if the district forester's salary had been computed in accordance with the reclassification of the district forester's job category and skill level required by section 2 of this chapter; minus**
- (2) the salary actually paid to the district forester for the period beginning July 1, 2008, and ending June 30, 2009.**

SECTION 8. IC 36-7-22-3, AS AMENDED BY P.L.131-2008, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "economic improvement project" means the following:

- (1) Planning or managing development or improvement activities.**
- (2) Designing, landscaping, beautifying, constructing, or maintaining public areas, public improvements, or public ways (including designing, constructing, or maintaining lighting, infrastructure, utility facilities, improvements, and equipment, water facilities, improvements, and equipment, sewage facilities, improvements, and equipment, streets, or sidewalks for a public area or public way).**
- (3) Promoting commercial activity or public events.**
- (4) Supporting business recruitment and development.**
- (5) Providing security for public areas.**
- (6) Acquiring, constructing, or maintaining parking facilities.**
- (7) Developing, constructing, rehabilitating, or repairing residential property, including improvements related to the structure and habitability of the public and private residential property.**
- (8) An economic development facility or redevelopment project established under IC 36-7-12, IC 36-7-14, or**

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IC 36-7-15.1.

SECTION 9. IC 36-7-22-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. **(a)** An ordinance adopted under section 7 of this chapter may provide that businesses established within the district after the creation of the district are exempt from special assessments for a period not to exceed one (1) year.

(b) Property that is:

(1) located within the district; and

(2) otherwise exempt from property taxation;

is not exempt from special assessments unless the property is specifically exempted from special assessments in the manner provided by this chapter.

SECTION 10. IC 36-7-22-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. **(a)** An ordinance adopted under section 7 of this chapter must establish an economic improvement board to be appointed by the legislative body. The board must have at least three (3) members, and a majority of the board members must own real property within the district.

(b) The economic improvement board of a district consisting of property belonging to only one (1) property owner must include the property owner and at least one (1) other member who is selected by the property owner.

SECTION 11. IC 36-7-22-12, AS AMENDED BY P.L.131-2008, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. **(a)** The board shall use the formula approved by the legislative body under section 7(a)(4) of this chapter to determine the percentage of benefit to be received by each parcel of real property within the economic improvement district. The board shall apply the percentage determined for each parcel to the total amount that is to be defrayed by special assessment and determine the assessment for each parcel.

(b) Promptly after determining the proposed assessment for each parcel, the board shall mail notice to each owner of property to be assessed. This notice must:

- (1)** set forth the amount of the proposed assessment;
- (2)** state that the proposed assessment on each parcel of real property in the economic improvement district is on file and can be seen in the board's office;
- (3)** state the time and place where written remonstrances against the assessment may be filed;
- (4)** set forth the time and place where the board will hear any

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owner of assessed real property who has filed a remonstrance before the hearing date; and

(5) state that the board, after hearing evidence, may increase or decrease, or leave unchanged, the assessment on any parcel.

(c) The notices must be deposited in the mail twenty (20) days before the hearing date. The notices to the owners must be addressed as the names and addresses appear on the tax duplicates and the records of the county auditor.

(d) At the time fixed in the notice, the board shall hear any owner of assessed real property who has filed a written remonstrance before the date of the hearing. The hearing may be continued from time to time as long as is necessary to hear the owners.

(e) The board shall render its decision by increasing, decreasing, or confirming each assessment by setting opposite each name, parcel, and proposed assessment, the amount of the assessment as determined by the board. However, if the total of the assessments exceeds the amount needed, the board shall make a prorated reduction in each assessment.

(f) Except as provided in section 13 of this chapter, the signing of the assessment schedule by a majority of the members of the board and the delivery of the schedule to the county auditor ~~constitutes~~ **constitute** a final and conclusive determination of the benefits that are assessed.

(g) Each economic improvement district assessment is:

(1) included within the definition of property taxation under IC 6-1.1-1-14 **for purposes of applying Section 164 of the Internal Revenue Code to the determination of taxable income;**

(2) collected for the general public welfare; and

~~(2) (3)~~ **(3) a lien on the real property that is assessed in the economic improvement district.**

~~The general assembly finds that an economic improvement district assessment is a property tax levied for the general public welfare.~~

(h) An ~~economic improvement district assessment paid by a property owner is a property tax for the purposes of applying Section 164 of the Internal Revenue Code to the determination of adjusted gross income. However, an economic improvement district assessment paid by a property tax owner is not eligible for a credit under IC 6-1.1, IC 6-3.5, or any other law.~~

(i) The board shall certify to the county auditor the schedule of assessments of benefits.

SECTION 12. IC 36-7-22-22, AS ADDED BY P.L.131-2008, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. **(a)** The board may:

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(1) exercise of any of the powers of a unit under IC 36-7-12-18 or IC 36-7-12-18.5; or
 (2) issue revenue bonds;
 to finance an economic improvement project.

(b) Bonds may be issued for an economic improvement project by a commission established under IC 36-7-12, IC 36-7-14, or IC 36-7-15.1.

(c) Notwithstanding any other law, a taxing unit that expects to receive an economic benefit from an economic improvement district project under this chapter may pledge special assessments and any legally available funds for the payment of bonds or lease rentals to finance an economic improvement project, an economic development facility, or a redevelopment project established under IC 36-7-12, IC 36-7-14, or IC 36-7-15.1. The pledge does not create a debt of the pledging taxing unit under the Constitution of the State of Indiana.

SECTION 13. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the interim study committee on horse racing established by this SECTION.

(b) There is established the interim study committee on horse racing. The committee shall study issues concerning live pari-mutuel horse racing, including the following:

- (1) The allocation of stalls at racetracks.**
- (2) The distribution of money received by the Indiana horse racing commission.**
- (3) Racing opportunities for Indiana bred horses.**
- (4) Injuries and equine mortality.**
- (5) Drug testing.**
- (6) Breed development.**
- (7) Whether the Indiana horse racing commission should remain an independent agency or be placed within the Indiana state department of agriculture.**
- (8) The allocation of money for purses.**

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including a final report.

(e) The committee shall submit a final report of the committee's findings and recommendations to the legislative council in an electronic format under IC 5-14-6 before November 1, 2009.

(f) This SECTION expires December 1, 2009.



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SECTION 14. [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] (a) IC 4-35-7-12, as amended by this act, applies to:

- (1) adjusted gross receipts (as defined in IC 4-35-2-2) received by a licensee after December 31, 2008;
- (2) amounts that are distributed to promote horses and horse racing under IC 4-35-7-12(b)(3) after January 31, 2009; and
- (3) racing meetings that begin after December 31, 2008.

(b) As used in this SECTION, "fund" refers to the breed development fund established for thoroughbreds under IC 4-31-11-10.

(c) As used in this SECTION, "licensee" has the meaning set forth in IC 4-35-2-7.

(d) Distributions made before May 1, 2009, must be reconciled with the distribution amounts required under IC 4-35-7-12, as amended by this act. A licensee shall supplement each distribution to the fund under IC 4-35-7-12(d)(1)(B), as amended by this act, that is made after April 30, 2009, and before November 1, 2010, with an additional amount that is equal to one-sixth (1/6) of the difference between:

- (1) the total amount of distributions to the fund for February, March, and April 2009 that are required by IC 4-35-7-12(d)(1)(B), as amended by this act; minus
- (2) the total amount of distributions that were actually made to the fund in February, March, and April 2009.

(e) This SECTION expires May 1, 2010.

SECTION 15. P.L.131-2008, SECTION 70, IS REPEALED [EFFECTIVE JULY 1, 2009].

SECTION 16. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to ESB 448 as printed April 7, 2009.)

CRAWFORD, Chair

Committee Vote: yeas 22, nays 2.

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